

§ AO 120 (Rev. 3/04)

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Middle District of Florida, Tampa on the following ☐ Patents or ☒ Trademarks:

DOCKET NO. 8:08-cv-1759-T-23EAJ		DATE FILED 9/5/08	U.S. DISTRICT COURT Middle District of Florida - Tampa Division
PLAINTIFF HEIDELBERGER DRUCKMASCHINEN AKTIENGESellschaft		DEFENDANT DEMERS, INC. and KEVIN S. DEMERS	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK		HOLDER OF PATENT OR TRADEMARK
1 See attached complaint			
2 1,117,568			
3 2,275,080			
4 3,153,188			
5 2,641,809			

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK		HOLDER OF PATENT OR TRADEMARK
1			
2			
3			
4			
5			

In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK Sheryl L. Loesch	(BY) DEPUTY CLERK Lisa Y. Bingham	DATE 9/5/08
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

-----X
HEIDELBERGER DRUCKMASCHINEN
AKTIENGELLSCHAFT,

Plaintiff,

v.

DEMERS, INCORPORATED and
KEVIN S. DEMERS,

Defendants.
-----X

08 Civ. _____ ()

Mag. Judge _____

**COMPLAINT FOR
TRADEMARK INFRINGEMENT
AND UNFAIR COMPETITION**

In the United States District Court for the Middle District of Florida, plaintiff

HEIDELBERGER DRUCKMASCHINEN AKTIENGELLSCHAFT (hereinafter

"Heidelberger") by its undersigned attorneys, complains of defendants Demers, Incorporated and Kevin S. Demers, both personally and as President of Demers, Incorporated (hereinafter collectively "Demers" or "Defendants"), and alleges as follows:

THE PARTIES

1. Plaintiff Heidelberg Druckmaschinen Aktiengesellschaft is a corporation organized and existing under the laws of the Federal Republic of Germany, and has its principal place of business at 52-62 Kurfürstenan-Anlage, 69115 Heidelberg, Germany. Through various wholly-owned subsidiaries in the United States, Heidelberg does business in the United States including in this judicial district, by selling and servicing a wide variety of, *inter alia*, printing presses and component parts therefore, under the brand name HEIDELBERG®.

2. On information and belief, defendant Demers, Inc. is a corporation organized and existing under the laws of the State of Florida, has its principal place of business

at 11052 Challenger Avenue, Odessa, Florida 33556, and is currently doing business at that address within this judicial district.

3. On information and belief, defendant Kevin S. Demers is a resident of Florida, is currently the President Demers, Inc., is the owner of 100% of the capital stock of the corporation, and is directly involved in and controls the day-to-day aspects of the business of the aforementioned defendant.

4. On information and belief, defendants Demers, Inc. and Kevin S. Demers (collectively "Defendants"), act within this judicial district as distributors and retailers of printing presses, replacement parts therefore, and other printing press-related services.

JURISDICTION

5. This Court has jurisdiction over the federal claims in this action under the Trademark Laws of the United States, Lanham Act Sections 32, 39 and 43(a), 15 U.S.C. §§ 1114, 1121 and 1125(a), and the Judicial Code of the United States, 28 U.S.C. §§ 1331, 1338(a) and (b) and 1367.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c), in that a substantial part of the events giving rise to this action occurred in this judicial district and Defendants can be found in this district.

7. This action arises out of Defendants' unauthorized use of Heidelberg's federally registered trademark HEIDELBERG both on and in connection with certain printing press parts that, upon information and belief, are not genuine Heidelberg parts, and in connection with educational services that relate to printing press technology. Defendants' use of the term HEIDELBERG infringes Heidelberg's rights in its HEIDELBERG trademark. The use of HEIDELBERG by Defendants on products not manufactured by Heidelberg and in

connection with educational services not associated with or approved by Heidelberg, implies falsely, deceptively, and confusingly that such products and services are original HEIDELBERG-branded parts and/or that Defendants are affiliated with Heidelberg or that they are in some way associated with, licensed by, or otherwise sponsored or approved by Heidelberg.

8. By this Complaint Heidelberg seeks permanent injunctive relief and damages pursuant to Sections 32, 34, 35, 36 and 43(a) of the Lanham Act, 35 U.S.C. §§ 1114, 1116, 1117, 1118 and 1125(a).

BACKGROUND FACTS

A. Heidelberg Druckmaschinen Aktiengesellschaft

9. Heidelberg is a global manufacturing and services company employing more than 19,000 employees, and generating more than 3.5 billion euro in sales annually. Heidelberg's United States business employs more than 900 individuals and generates more than \$400 million in annual sales. Heidelberg's business focuses on the entire printing process and value chain for popular format classes in the sheetfed offset and flexographic printing sectors. Apart from printing presses, the company's product portfolio includes plate imaging devices and finishing equipment, as well as software components designed to integrate all print manufacturing processes.

10. In the United States, Heidelberg does business through its wholly-owned subsidiary, Heidelberg U.S.A., Inc., and offers a wide range of products and services under the brand name HEIDELBERG. Among the products and services offered by Heidelberg in the United States are printing press machines and post-press machines (e.g., binding, cutting,

folding, labeling and stitching machines), and well as a wide range of printing and post-print solutions.

11. Heidelberg's printing presses, post-print products and component parts are all made to highly precise specifications, and under the strictest quality control. Heidelberg printing presses are comprised of literally thousands of parts, each of which must work in perfect unison with the others in order to function properly under the stress of the high-speed printing environment associated with the offset printing process. Failure of a component part in one of these precise machines can ruin a print run and potentially could damage the machine, either of which could cost the owner of the press thousands of dollars, if not more. In order to ensure that such failures do not occur, Heidelberg closely controls the manufacture of the component parts sold under the HEIDELBERG name in order to ensure that such parts are superior products capable of functioning in their intended manner.

12. Heidelberg also offers a range of educational services relating to printing presses and the business of printing. One such service is called the Heidelberg Summer Academy, which is part of Heidelberg's Print Media Academy. The Summer Academy, as shown in the web site materials attached hereto as Exhibit 1, focuses on the printing business and various aspects thereof. Other educational offerings include courses relating to the service and maintenance of HEIDELBERG print machines. See Exhibit 2.

13. In addition to these products and services, Heidelberg U.S.A. also offers replacement parts for HEIDELBERG presses and other HEIDELBERG machines. Heidelberg offers original HEIDELBERG parts made to the precision standards of genuine HEIDELBERG equipment. Heidelberg's parts department is able to fill approximately 91% of all orders from

stock, and, using the worldwide Heidelberg network, has more than a 99% availability of all parts.

14. Genuine HEIDELBERG replacement parts are, depending on their size, packaged in bags, boxes or other containers bearing the HEIDELBERG trademark, which mark has long been displayed in a distinctive light blue color. Photos showing examples of Heidelberg's genuine replacement parts and the packaging in which they appear are attached hereto as Exhibit 3.

15. Heidelberg, both itself and through its United States division, has used the trademark HEIDELBERG in the United States since at least as early as 1967, and has obtained several federal trademark registrations for the mark. These registrations include Reg. No. 1,117,568; Reg. No. 2,275,080; and Reg. No. 3,153,188, and each are in good standing, in full force and effect, and are owned by Heidelberg. Attached hereto as Exhibits 4, 5, and 6, respectively, are copies of the foregoing trademark registrations, together with print outs from the United States Patent & Trademark Office's on-line database indicating their current status.

16. As shown in the printouts attached as Exhibits 4-6, the HEIDELBERG trademark registrations specifically cover the use of the term HEIDELBERG for, *inter alia*, printing presses and component parts thereof.

17. In addition to the registrations shown in Exhibits 4-6, Heidelberg is also the owner of United States trademark Registration No. 2,641,809, which registration is based Heidelberg's German Registration No. 30,035,452. A copy of U.S. Registration No. 2,641,809, is attached hereto as Exhibit 7, and, as can be seen from a review of the goods and services covered by the registration, the services include "Educational services, namely

conducting classes, seminars, workshops, in the field of graphic industry and distributing course materials in connection therewith.”

18. As a result of Heidelberg’s long-term use and extensive sales of the HEIDELBERG name on printing presses and component parts thereof, and in connection with educational seminars and training courses relating to printing presses and the printing industry, that name and trademark have become famous and well known to consumers and to the trade, identifying Heidelberg as the exclusive and unique source of the products and services to which the trademark is applied or with which it is associated. Consumers have come to recognize that products sold and services offered under the HEIDELBERG trademark are of high quality, and as a result, the HEIDELBERG trademark has acquired great value and goodwill.

B. Defendants’ Infringing Activities

19. On information and belief, defendant Demers, Inc. is in the business of advertising, marketing, promoting, distributing, offering for sale and selling, used and in some cases refurbished HEIDELBERG-branded printing presses and component parts therefore in the State of Florida and throughout the United States. On further information and belief, the activities of Demers, Inc. are controlled and directed by defendant Kevin S. Demers.

20. On information and belief, Defendants are in possession of certain printing press component parts that they are offering for sale and selling under the trademark HEIDELBERG. An example of one such component part – a “gripper”, commonly referred to in the graphic industry as a “pincer finger” because of the way it holds the paper passing through the printing press – obtained directly from defendant Demers, Inc., is shown in the photograph attached hereto as Exhibit 8.

21. Two packages of the "pincer finger" devices shown in Exhibit 8 were purchased from a Demers display booth by a representative of Heidelberger on February 29, 2008 in Miami Beach, Florida, during the Graphic Arts of the Americas trade show. A copy of the receipt for this purchase is attached hereto as Exhibit 9. The price at which Defendants sold the parts was \$24 each. An authentic HEIDELBERG part of the same type would typically sell for about \$31.

22. After purchasing the pincer finger devices shown in Exhibit 8, Heidelberger undertook an examination of the parts and the packaging in which the parts were sold. As a result of this analysis it was determined that despite the name shown on the packaging, the parts were not genuine HEIDELBERG parts. It was further determined that the packaging was not the same as the packaging used for authentic HEIDELBERG parts.

23. Specifically, the heads of the pincer finger devices obtained from Demers are different from the heads of genuine HEIDELBERG pincer finger devices. Upon information and belief, as a result of this difference, the pincer fingers obtained from Demers will not fit properly in a HEIDELBERG press, and as such, the devices will not hold the paper correctly during printing. When paper moving through a press is not held correctly the results of the press run are poor, often with stripes of ink running down the paper or blurred images. It is also possible that the paper could come loose and get lost in the machine, thereby causing damage to the machine or, at a minimum, down time for maintenance.

24. On information and belief, Defendants have offered to sell and have sold the fake pincer finger devices shown in Exhibit 8 at at least one trade show in the United States, and continue to offer them for sale on line through their catalog. Unless enjoined and restrained

by this court, will continue to offer such products for sale in the United States, including in this judicial district.

25. On information and belief, Defendants are and have been very well aware of the valuable goodwill associated with Heidelberg's HEIDELBERG trademark long before Defendants began offering for sale and selling the counterfeit devices shown in Exhibit 8. Indeed, upon information and belief, defendant Kevin Demers was formerly employed by Heidelberg's United States subsidiary (then known as Heidelberg Eastern). See Exhibit 10, hereto.

26. On information and belief, Defendants' offering for sale and sale of counterfeit parts in packaging under the HEIDELBERG trademark has resulted in, and continues to result in, irreparable damage to Heidelberg both in this country and throughout the world wherever such products are offered for sale. For this harm there is no adequate remedy at law.

27. On information and belief, Defendants' sale and distribution of counterfeit parts of the type shown in Exhibit 8, potentially exposes Heidelberg to significant liability. For example, as described above, because the pincer fingers sold by Demers are not made to the same specifications as genuine HEIDELBERG parts, they will not fit a HEIDELBERG press properly. As such, in addition to the output of a printing press run being of inferior quality, there is the potential for machine down time, damage, and the need for costly maintenance. In such a situation, as a result of the presence of the HEIDELBERG name on and in connection with the products sold by Defendants, Heidelberg would in all likelihood be mistakenly identified as the source of the failed part.

28. Because Heidelberg can not control the manufacture of the parts being offered by Defendants under the HEIDELBERG name, Heidelberg has no way to ensure their

quality. As such, consumers purchasing these parts expecting to receive parts manufactured to the high quality standards typically associated with authentic HEIDELBERG-branded parts, will be deceived by these counterfeit, inferior products. Moreover, to the extent an end-user of one of these parts is unsatisfied with the product (or, worse, its machinery is damaged or an operator is physically harmed), Heidelberg's long-standing reputation for high quality products will be damaged. Further still, Heidelberg could be forced to defend liability claims because the end-user will believe the products are genuine HEIDELBERG products in view of the products' packaging.

29. In addition to Defendants' sale of counterfeit parts, it has recently come to Heidelberg's attention that Defendants are offering educational services under the HEIDELBERG name. The page attached hereto as Exhibit 11 is a page from Defendants' www.demersinc.com web site (a similar page appears in Defendants' printed catalog). Exhibit 11 shows that Defendants are now offering an educational program under the name HEIDELBERG. This education program, which is entitled "Heidelberg Die Cutting College" and which is identified on Defendants' the web site as "new", is a service purporting to provide educational instruction with respect to "Heidelberg Die Cutter machines". Upon information and belief, Defendants' educational offering will be taught by Defendant Kevin Demers, and will be offered three times per year.

30. Defendants' "Heidelberg Die Cutting College" is not sponsored by, approved by, or in any way associated with Heidelberg. Further, upon information and belief, the use of the name "Heidelberg Die Cutting College" falsely implies to consumers that the educational program offered by Defendants is sponsored or approved by, or in some way affiliated or associated with, Heidelberg.

31. Moreover, while it is possible that defendant Kevin Demers was formerly a "Heidelberg Eastern technician" (as indicated in Exhibit 10), Mr. Demers has not been employed in that capacity for at least twenty-four years. Upon information and belief, Heidelberg's technology and machines have significantly progressed over the intervening years and there is no basis upon which to conclude that Mr. Demers' knowledge with respect to HEIDELBERG machines is current or that he has any training or experience with any of the many machines developed or service advancements made by Heidelberg in recent years. In any event, upon information and belief, Mr. Demers has not been trained by Heidelberg in many years and the false impression created by his web site is that his training is up to date and that he can impart that up-to-date training to those who enroll in the course offered by Defendants.

32. On information and belief, unless preliminarily and permanently enjoined, they Defendants will continue to offer for sale and sell the counterfeit grippers in their possession and will continue to offer the "Heidelberg Die Cutting College" educational program, thereby resulting in substantial harm to Heidelberg and its goodwill in its HEIDELBERG® trademark.

FIRST CAUSE OF ACTION

33. This is a claim for trademark infringement arising under the Trademark Laws of the United States, Lanham Act Section 32, 15 U.S.C. § 1114. Jurisdiction is founded upon 28 U.S.C. § 1331 and § 1338(a).

34. Plaintiff Heidelberg incorporates by reference the allegations set forth in paragraphs 1 through 32 of this Complaint with the same force and effect as if set forth herein in their entirety.

35. The Defendants' offering for sale and sale of counterfeit products in packaging displaying the HEIDELBERG trademark is likely to cause confusion in the minds of the public, and is likely to cause mistake or to deceive persons into the erroneous belief that the products Defendants' are offering and are selling are genuine HEIDELBERG products, emanating from, or associated with, endorsed by, authorized by, or sponsored by Heidelberg, or that such products are connected in some way with Heidelberg.

36. The Defendants acts and conduct set forth above constitute willful infringement of Heidelberg's HEIDELBERG trademark and willful unfair competition with Heidelberg.

37. The Defendants' use of the name HEIDELBERG trades on the goodwill Heidelberg has developed in its HEIDELBERG trademark and such acts damage the rights of Heidelberg in its HEIDELBERG trademark and the goodwill represented thereby, all to the detriment of Heidelberg.

38. The Defendants' aforesaid acts constitute trademark infringement of Heidelberg's HEIDELBERG trademark and have damaged Heidelberg and will, unless enjoined, further impair or destroy the value of Heidelberg's goodwill and registered trademark.

39. The Defendants' aforesaid acts are in violation of 15 U.S.C. § 1114 and Defendants are liable to plaintiff for damages. The Defendants' acts have caused and will continue to cause further irreparable injury to Heidelberg if Defendants are not restrained by this Court from further violations of Heidelberg's rights.

40. Heidelberg has been irreparably injured by the Defendants' aforesaid acts and has no adequate remedy at law.

SECOND CAUSE OF ACTION

41. This is a claim for false designation of origin arising under the Trademark Laws of the United States, Lanham Act Section 43(a), 15 U.S.C. § 1125(a). Jurisdiction is founded upon 28 U.S.C. § 1331 and § 1338(a).

42. Plaintiff Heidelberg incorporates by reference the allegations set forth in paragraphs 1-32 and 34-40 of this Complaint with the same force and effect as if set forth herein in their entirety.

43. The Defendants' unauthorized use of Heidelberg's HEIDELBERG trademark in connection with the marketing of counterfeit HEIDELBERG products is likely to cause confusion in the minds of the public with Heidelberg's products, and is likely to cause mistake or to deceive persons into the erroneous belief that the counterfeit products being offered for sale by Defendants emanate from, are associated with, or are endorsed, authorized, or sponsored by Heidelberg or that Defendants are connected in some way with Heidelberg.

44. The Defendants' acts and conduct set forth above constitute willful infringement of Heidelberg's HEIDELBERG trademark and willful unfair competition with Heidelberg.

45. The Defendants' complained of conduct has been without leave, license or permission of Heidelberg.

46. The Defendants' aforesaid acts constitute false designation of origin and are in violation of 15 U.S.C. § 1125(a).

47. Heidelberg has been and is likely to continue to be damaged by Defendants' continued use of this false designation of origin.

48. Heidelberg has been irreparably injured by Defendants' aforesaid acts and has no adequate remedy at law.

THIRD CAUSE OF ACTION

49. This is a claim for trademark infringement arising under the Trademark Laws of the United States, Lanham Act Section 32, 15 U.S.C. § 1114. Jurisdiction is founded upon 28 U.S.C. § 1331 and § 1338(a).

50. Plaintiff Heidelberg incorporates by reference the allegations set forth in paragraphs 1-32, 34-40, and 42-48 of this Complaint with the same force and effect as if set forth herein in their entirety.

51. The Defendants' offering of educational services under the HEIDELBERG trademark is likely to cause confusion in the minds of the public, and is likely to cause mistake or to deceive persons into the erroneous belief that Defendants' educational services are associated with, endorsed by, authorized by, or sponsored by Heidelberg, or that such services are connected in some way with Heidelberg.

52. The Defendants acts and conduct set forth above constitute willful infringement of Heidelberg's HEIDELBERG trademark and willful unfair competition with Heidelberg.

53. The Defendants' use of the term HEIDELBERG trades on the goodwill Heidelberg has developed in its HEIDELBERG trademark and such acts damage the rights of Heidelberg in its HEIDELBERG trademark and the goodwill represented thereby, all to the detriment of Heidelberg.

54. The Defendants' aforesaid acts constitute trademark infringement of Heidelberg's HEIDELBERG trademark and have damaged Heidelberg and will, unless enjoined, further impair or destroy the value of Heidelberg's goodwill and registered trademark.

55. The Defendants' aforesaid acts are in violation of 15 U.S.C. § 1114 and Defendants are liable to plaintiff for damages. The Defendants' acts have caused and will continue to cause further irreparable injury to Heidelberg if Defendants are not restrained by this Court from further violations of Heidelberg's rights.

56. Heidelberg has been irreparably injured by the Defendants' aforesaid acts and has no adequate remedy at law.

FOURTH CAUSE OF ACTION

57. This is a claim for false designation of origin arising under the Trademark Laws of the United States, Lanham Act Section 43(a), 15 U.S.C. § 1125(a). Jurisdiction is founded upon 28 U.S.C. § 1331 and § 1338(a).

58. Plaintiff Heidelberg incorporates by reference the allegations set forth in paragraphs 1-32, 34-40, 42-48, and 50-56 of this Complaint with the same force and effect as if set forth herein in their entirety.

59. The Defendants' unauthorized use of Heidelberg's HEIDELBERG trademark in connection with the offering of educational services under the name "Heidelberg Die Cutting College" is likely to cause confusion in the minds of the public with Heidelberg's educational services, and is likely to cause mistake or to deceive persons into the erroneous belief that the educational services being offered by Defendants are associated with, or are endorsed, authorized, or sponsored by Heidelberg or that Defendants are connected in some way with Heidelberg.

60. The Defendants' acts and conduct set forth above constitute willful infringement of Heidelberg's HEIDELBERG trademark and willful unfair competition with Heidelberg.

61. The Defendants' complained of conduct has been without leave, license or permission of Heidelberg.

62. The Defendants' aforesaid acts constitute false designation of origin and are in violation of 15 U.S.C. § 1125(a).

63. Heidelberg has been and is likely to continue to be damaged by Defendants' continued use of this false designation of origin.

64. Heidelberg has been irreparably injured by Defendants' aforesaid acts and has no adequate remedy at law.

FIFTH CAUSE OF ACTION

65. This is a claim for unfair competition and trademark dilution arising under the trademark dilution statute of the State of Florida, particularly Fla. Stat. Ann. § 495.151. This Court has supplemental jurisdiction under 28 U.S.C. § 1367 over this claim which is so related to the other claims in this action which are within the original jurisdiction of this Court that they form part of the same case or controversy.

66. Heidelberg incorporates by reference the allegations set forth in paragraphs 1-32, 34-40, 42-48, 50-56, and 58-64 of this Complaint with the same force and effect as it set forth herein in their entirety.

67. Defendants' conduct and acts alleged above constitute a likelihood of dilution of the distinctive quality of Heidelberg's HEIDELBERG trademark. In addition, Defendants' conduct and acts alleged above constitute a likelihood of injury to Heidelberg' business reputation and will continue to do so unless such acts are enjoined by this Court.

68. Heidelberg has been irreparably injured by the Defendants' aforesaid acts and has no adequate remedy at law.

WHEREFORE, plaintiff Heidelberg Druckmaschinen Aktiengesellschaft asks this Court to:

1. Grant injunction both in the United States and wherever Defendants' infringing products are or may be sold, enjoining defendants Demers, Inc. and Kevin S. Demers (both personally and as President of Demers, Inc.), and all those in privity, concert or participation with any of them, in any manner, from directly or indirectly:

a) using any false designation of origin or false description (including, without limitation, any letters or symbols) which can, or is likely to, lead the trade or consuming public, or individual members hereof, to believe that any product made, sold, marketed, promoted or distributed by Defendants, or any service offered by Defendants, is in any manner associated or connected with, is manufactured, sold, licensed, approved, sponsored or authorized by Heidelberg;

b) advertising, marketing, distributing, offering or selling any product bearing the HEIDELBERG trademark and/or packaged in packaging bearing the HEIDELBERG trademark, unless such product was obtained directly from Heidelberg or from an authorized Heidelberg distributor;

c) making, selling, offering for sale, marketing, advertising, promoting or distributing products in packaging which falsely implies or suggests that such products originated from or are in any manner associated or are connected with, manufactured, sold, licensed, approved, sponsored or authorized by Heidelberg;

d) offering any service under the HEIDELBERG name, including, without limitation, the "Heidelberg Die Cutting College";

e) causing likelihood of confusion or of misunderstanding as to the source, sponsorship or approval of products or services distributed, offered, advertised or sold by Defendants;

f) engaging in any act or acts causing or likely to mistakenly cause the trade or consuming public, or any member thereof, to believe that products or services distributed, offered, advertised or sold by Defendants are in any manner associated with or are connected with; manufactured, sold, licensed, approved, sponsored or authorized by Heidelberg;

g) imitating, copying, counterfeiting, simulating or making any other unauthorized use of Heidelberg's HEIDELBERG trademark and/or any logo(s) associated therewith (including, without limitation, internet use);

h) circulating, selling, distributing, marketing, moving or otherwise disposing of, any product, product packaging, or service bearing any simulation, reproduction, counterfeit, copy or colorable imitation of Heidelberg's HEIDELBERG trademark;

i) destroying or otherwise disposing of any of the products, packaging, advertising and/or promotional materials related in any way to the products or services covered by sub-paragraphs (a) through (h) above, or any of the documents or computer files or records pertaining to any of the foregoing or to the acquisition or to the sales or use of the same; and

j) assisting, aiding or abetting any other person or business entity in engaging or performing any one or more of the activities referred to in sub-paragraphs (a) through (i) above;

2. Find that Defendants have unfairly competed with Heidelberg by the acts complained of herein;

3. Find that Defendants have infringed Heidelberg's HEIDELBERG trademark rights in both the United States and wherever throughout the world where Defendants have offered for sale and/or distributed counterfeit HEIDELBERG products as set forth herein, and find that said acts will damage, dilute and diminish the distinctiveness of Heidelberg's HEIDELBERG trademark unless Defendants are enjoined by this Court;

4. Find that Defendants have infringed Heidelberg's HEIDELBERG trademark rights in both the United States and wherever throughout the world where Defendants have offered services under the name HEIDELBERG, and find that said acts will damage, dilute and diminish the distinctiveness of Heidelberg's HEIDELBERG trademark unless Defendants are enjoined by this Court;

5. Find that Defendants' have violated Heidelberg's rights under Florida law;

6. Grant an order requiring Defendants to deliver up to Heidelberg or its designated representative for destruction (or disposal in a manner to be dictated by Heidelberg), all counterfeit HEIDELBERG products as well as all promotional, advertising and/or packaging material of any kind associated therewith or with any services offered under the HEIDELBERG name;

7. Award to Heidelberg all of Defendants' profits and further award to Heidelberg damages as a result of Defendants' willful infringement and unfair competition wherever Defendants' products and/or services are or have been sold, including punitive damages in an amount to be determined by this Court;

8. Award to Heidelberg its attorneys' fees and costs; and
9. Grant to Heidelberg such other further relief as the Court may deem just and proper in the circumstances.

Respectfully submitted,

Date: September 5, 2008

By 

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